

The opinion in support of the decision being entered today is not binding precedent of the Board.

Paper 1

Filed by: Michael P. Tierney  
Administrative Patent Judge  
Mail Stop Interference  
P.O. Box 1450  
Alexandria, VA 22313  
Tel: 703-308-9797  
Fax: 703-305-0942

Filed  
May 30, 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

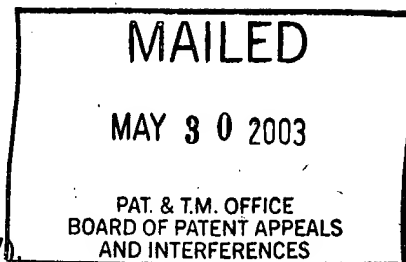
---

PECHINEY EMBALLAGE FLEXIBLE EUROPE

Junior Party,  
(Patent 6,437,064),

v.

CRYOVAC, INC.,  
Senior Party,  
(Application 09/583,654 and 08/996,367)



---

Patent Interference No. 105,092 (MPT)

---

**NOTICE DECLARING INTERFERENCE**  
(37 CFR § 1.611)

**Part A. Declaration of interference**

An interference is declared (35 U.S.C. § 135(a)) between the above-identified parties.

Details of the application(s), patent (if any), reissue application (if any), count(s) and claims designated as corresponding or as not corresponding to the count(s) appear in Parts E and F of this NOTICE DECLARING INTERFERENCE.

**Part B. Judge designated to handle the interference**

Administrative Patent Judge Michael P. Tierney has been designated to handle the interference. 37 CFR § 1.610(a).

**Part C. Standing order**

A Trial Section STANDING ORDER accompanies this NOTICE DECLARING INTERFERENCE. The STANDING ORDER applies to this interference.

**Part D. Conference call to set dates**

A telephone conference call to set dates for taking action in the interference is scheduled for **11:00 a.m., July 30, 2003** (the call will be initiated from the PTO).

No later than **two business days** prior to the conference call, each party shall file and serve by facsimile a list of the preliminary motions the party intends to file. See § 17 of the STANDING ORDER.

A copy of a "sample" order setting times for taking action during the preliminary motion phase of the interference accompanies this NOTICE DECLARING INTERFERENCE.

Counsel are encouraged to discuss the order prior to the conference call with the view to coming to some mutual agreement as to dates for taking action. A typical preliminary motion period lasts approximately nine (9) months. Counsel should be prepared to justify any request for a shorter or longer period.

**Part E. The parties involved in this interference are:**

Junior Party:

Named inventors: JOHN P. ECKSTEIN, Neenah, WI  
JOHNNY Q. ZHENG, Appleton, WI  
MARK E. NORDNESS, Neenah, WI  
KEITH D. LIND, Appleton, WI  
GEORGE H. WALBRUN, Menasha, WI  
MARY E. SHEPARD, Oshkosh, WI  
GREGORY K. JONES, Appleton, WI  
GREGORY J. SEEKE, Oshkosh, WI

Patent: U.S. Patent No. 6,437,064, issued on August 20, 2002, based upon  
U.S. Application No. 09/006,700, filed January 14, 1998.

Title: Structures of Polymers Made from Single Site Catalysts

Assignee: Pechiney Emballage Flexible Europe

Accorded Benefit: 1) U.S. Application No. 08/481,617, filed June 7, 1995, now  
abandoned  
2) U.S. Application No. 08/082,226, filed June 24, 1993, now  
abandoned

Attorneys: See last page

Address: See last page

Senior Party:

Named inventors: KELLY R. AHLGREN, Greenville, SC  
ROBERT BABROWICZ, Spartanburg, SC  
SOLOMON BEKELE, Taylors, SC  
BLAINE C. CHILDRESS, Inman, SC  
MARVIN R. HAVENS, Greer, SC  
RONALD D. MOFFITT, Spartanburg, SC  
GAUTAM P. SHAH, Simpsonville SC  
GEORGE WOFFORD, Duncan, SC

Application: U.S. Application No. 09/583,654, filed May 30, 2000

Title: Heat Shrinkable Films Containing Single Site Catalyzed  
Copolymers Having Long Chain Branching

Assignee: Cryovac, Inc.

Accorded Benefit: 1) U.S. Application No. 08/018,657, filed February 17, 1993,  
now abandoned

2) U.S. Application No. 07/976,122, filed November 13,  
1992, now abandoned

3. U.S. Application No. 07/983,017, filed November 30,  
1992, now abandoned.

Attorneys: See last page

Address: See last page

Senior Party:

Named inventors: KELLY R. AHLGREN, Greenville, SC  
ROBERT BABROWICZ, Spartanburg, SC  
SOLOMON BEKELE, Taylors, SC  
BLAINE C. CHILDRESS, Inman, SC  
MARVIN R. HAVENS, Greer, SC  
VINCENT W. HERRAN, Greenville, SC  
RONALD D. MOFFITT, Spartanburg, SC  
GAUTAM P. SHAH, Simpsonville SC  
GEORGE WOFFORD, Duncan, SC

Application: U.S. Application No. 08/996,367, filed December 22, 1997

Title: Heat Shrinkable Films Containing Single Site Catalyzed Copolymers

Assignee: Cryovac, Inc.

Accorded Benefit: 1) U.S. Application No. 08/747,241, filed October 12, 1996, now abandoned  
2) U.S. Application No. 08/418,926, filed April 7, 1995, now abandoned  
3. U.S. Application No. 07/976,122, filed November 13, 1992, now abandoned.

Attorneys: See last page

Address: See last page

**Part F. Count and claims of the parties**

Count 1

A heat shrink film according to claim 7 of U.S. Patent No. 6,437,064.

The claims of the parties are:

Pechiney, U.S. Patent No. 6,437,064: 1-31  
Cryovac, U.S. Application No. 08/996,367: 1-8, 10-24, 26-43, 46-56 and 61-64  
Cryovac, U.S. Application No. 09/583,654: 1, 3-5 and 7-26

The claims of the parties that correspond to Count 1 are:

Pechiney, U.S. Patent No. 6,437,064: 1-3, 6-19 and 22-31  
Cryovac, U.S. Application No. 08/996,367: 1-8, 10-24, 26-43, 46-56 and 61-63  
Cryovac, U.S. Application No. 09/583,654: 1, 3-5, 7, 10-14 and 20-26

The claims of the parties that **do not** correspond to Count 1 are:

Pechiney, U.S. Patent No. 6,437,064: 4, 5, 20 and 21  
Cryovac, U.S. Application No. 08/996,367: 64  
Cryovac, U.S. Application No. 09/583,654: 8, 9 and 15-19

**Part G. Heading to be used on papers**

The following heading shall be used on papers filed in the interference. See § 18 of the  
STANDING ORDER.

Paper \_\_\_\_<sup>1</sup>

Filed on behalf of [name of party]  
By: Name of lead counsel, Esq.  
Name of backup counsel, Esq.  
Street address  
City, State, and Zip-Code  
Tel:  
Fax:

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

PECHINEY EMBALLAGE FLEXIBLE EUROPE  
Junior Party,  
(Patent 6,437,064);

v.

CRYOVAC, INC.,  
Senior Party,  
(Applications 09/583,654 and 08/996,367).

Patent Interference No. 105,092 (MPT)

TITLE OF PAPER

<sup>1</sup> Leave a blank line because the board assigns the paper number.

**Part H. Summary of dates for taking action**

Times for taking action are set out in the following sections of the STANDING ORDER:

- i.       § 7: date for identifying lead and backup counsel.
- ii.      § 8: date for identifying any real party in interest.
- iii.     § 9: date for requesting copies of involved and benefit applications and patents.
- iv.      § 17: date for filing list of proposed preliminary motions.
- v.       § 19: date for accomplishing certain discovery.
- vi.      § 20: date for filing clean copy of claims.
- vii.     § 21: date for filing clean copy of claims in cases with drawings and/or claims containing a means plus function limitation.
- viii.    § 23: dates for filing oppositions to Rule 635 miscellaneous motions and dates for filing replies to oppositions.
- ix.      § 33: date for objecting to admissibility of evidence.
- x.       § 34: date for serving supplemental affidavits or evidence to respond to objection to admissibility of evidence.
- xi.      § 35: dates when cross-examination can take place.
- xii.     § 45: dates for taking action with respect to settlement discussions

**Part I. Order form for requesting file copies**

**FILE COPY REQUEST**

Interference No. 105,092

A copy of Part E of this NOTICE DECLARING INTERFERENCE should be attached to this FILE COPY REQUEST, with a circle by hand around the patents and applications for which a copy of a file wrapper is desired.

To facilitate processing of this FILE COPY REQUEST, the following information should be included:

1. Charge fees to USPO Deposit Account No. \_\_\_\_\_
2. Complete address, including street, city, state, zip code and telephone number (do not list a Post Office box inasmuch as file copies are sent via commercial overnight courier).

---

---

---

---

Telephone, including area code: \_\_\_\_\_

**Part J. Signature of administrative patent judge**

  
MICHAEL P. TIERNEY  
Administrative Patent Judge

Date: 5/30/03  
Arlington, VA

Enc:<sup>2</sup>

Copy of STANDING ORDER

Copy of order used for setting times for taking action in the preliminary motion phase of the interference

Copy of order used for setting times for taking action in the testimony and briefing phases of the interference

Pechiney, U.S. Patent No. 6,437,064

Cryovac, U.S. Application No. 09/583,654, claims 1, 3-5 and 7-26

Cryovac, U.S. Application No. 08/996,36 claims 1-8, 10-24, 26-43, 46-56 and 61-64

---

<sup>2</sup>No Rule 609(b) or Form PTO-850 is enclosed.

cc (via Federal Express):

Counsel for Pechiney Emballage Flexible Europe:

McDERMOTT, WILL & EMERY  
227 West Monroe Street  
Chicago, IL 60606-5096

Tel: 312-372-2000

Counsel for Cryovac:

Rupert Hurley  
Sealed Air Corporation, Law Dept.  
100 Rogersbridge Road, Bldg. A  
Duncan, SC 29334

Tel: 864-433-3247